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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,807	12/01/2003	Tim Schnell	5034-002	3683
24112	7590	08/25/2004	EXAMINER	
COATS & BENNETT, PLLC P O BOX 5 RALEIGH, NC 27602			TORRES, ALICIA M	
			ART UNIT	PAPER NUMBER
			3671	
DATE MAILED: 08/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,807

Applicant(s)

SCHNELL, TIM

Examiner

Alicia M Torres

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 10-12, 16, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 6-9, 13-15, 17 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/01/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 16, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller et al., hereafter Miller.

3. In regards to claims 1-3 and 16, Miller discloses a gang type lawn mower system adapted to be pulled behind a tractor, comprising:

- a. a wheel supported main frame (F);
- b. a power source (15) mounted on the main frame (F);
- c. at least two mower decks (67) connected to the main frame (F), each mower deck (67) having a rotary blade (72);
- d. each mower deck (67) being movably mounted to the main frame (F) and movable from an operative lowered position (see figures 1 and 2) where the mower deck (67) is operative to cut grass to an elevated stowed position (see figure 4) where at least a portion of the mower deck (67) overlies a portion of the main frame (F); and
- e. a drive (27, 31, 37) interconnected between the power source (15) and each of the mower decks (67) for driving each of the mower decks (67) whereby the mower decks (67) are driven by a single power source (15) mounted on the main frame (F), as per claim 1; and

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wherein the main frame (F) lies between two mower decks (67), and wherein in the lowered operative position the mower decks (67) extend outwardly from the main frame (F);

- a. wherein the main frame (F) does not include a blade for cutting grass; and
- b. each mower deck (67) being pivotally connected along one side of the main frame (F) such that when the mower deck (67) assumes a stowed position; the underside of the mower deck (67) faces at least partially upwardly and the entire mower deck (67) is supported by the main frame (F), as per claim 2; and

wherein in moving from the operative position to the stowed position each of the mower decks (67) move through an angle of at least 91° (see column 9, lines 67-72), as per claim 3; and

wherein the main frame (F) includes an upper platform (top of main frame F, see figure 3) having the power source (15) mounted thereon, as per claim 16.

4. In regards to claims 18 and 19, Miller discloses a gang type lawn mower system adapted to be pulled behind a tractor, comprising;

- a. a power source frame (F) adapted to attach to the tractor and having an area for receiving and supporting an internal combustion engine (15) thereon;

- b. an internal combustion engine (15) mounted on the power source frame (F) and having an output power shaft (16) extending therefrom;

- c. the power source frame (F) having a plurality of wheels (48) and a pair of opposed side areas (see figure 1);

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d. at least two mower decks (67) movably mounted to the power source frame (F), each mower deck (67) movably mounted to one side area of the power source frame (F) such that the power source frame (F) lies between the two mower decks (67) and wherein each mower deck (67) is operative to move independently of the power source frame (F);

e. each mower deck (67) having a blade (72) associated therewith for cutting grass;

f. a drive (16, 27, 31) extending from the power source frame (F) to each of the mower decks (67) and wherein the drive (16, 27, 31) transfers power from the internal combustion engine (15) to each of the mower decks (67) so as to drive the blades (72) associated with the mower decks (67);

g. each mower deck (67) being movable with respect to the power source frame (F) from a lowered operative position for cutting grass to an elevated stowed position;

h. wherein in the elevated stowed position each mower deck (67) is turned at least partially on the mower deck's (67) side such that an underside of the mower deck (67) faces outwardly or at least slightly upwardly; and

i. wherein the mower decks (67) are exclusively driven by the internal combustion engine (15) mounted on the power source frame (F) that in operation trails the tractor, as per claim 18; and

wherein each mower deck (67) is pivotally connected to one side of the power source frame (F) through one or more pivot connections (85) that permit each mower deck (67) to swing about a longitudinal axis that extends adjacent the side area of the power source frame (F), as per claim 19.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Allison.

The device is disclosed as applied to claim 1 above. However, Miller fails to disclose wherein the drive interconnected between the power source and the mower decks include a belt drive; and wherein the gang type lawn mower system includes a belt tensioner for maintaining a tension on the belt drive, as per claim 4; and

wherein the belt tensioner is secured to the main frame and extends outwardly therefrom where the belt tensioner is operatively connected to the mower decks, as per claim 5.

Allison discloses a gang mower wherein the drive interconnected between the power source (29) and the mower decks (25, 26) include a belt drive (37); and wherein the gang type lawn mower system includes a belt tensioner (36) for maintaining a tension on the belt drive (37), as per claim 4; and

wherein the belt tensioner (36) is secured to the main frame (15) and extends outwardly therefrom where the belt tensioner (36) is operatively connected to the mower decks (25, 26), as per claim 5.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the tensioner of Allison on the drive of Miller in order to tighten the belt.

7. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Torras, as cited by applicant.

The device is disclosed as applied to claim 1 above. However, Miller fails to disclose wherein the main frame includes at least two spaced apart caster wheels disposed on the front portion of the main frame.

Torras discloses a mower frame (30) including at least two spaced apart caster wheels (26, 27) disposed on the front portion of the main frame (30).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the caster wheels of Torras on the mower of Miller in order to allow the mower to undulate and pivot.

8. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Erdman, as cited by applicant.

The device is disclosed as applied to claim 1 above. However, Miller fails to disclose at least one belt guard extending from the main frame over a portion of one mower deck for guarding a belt drive that forms a part of the drive interconnected between the power source and the mower decks, as per claim 11; and

wherein the belt guard is pivotally mounted to the main frame and extends outwardly therefrom over a portion of the belt drive, as per claim 12.

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Erdman discloses a pull-behind gang mower including at least one belt guard (122, 124) extending from the main frame (64) over a portion of one mower deck (16, 18) for guarding a belt drive (118) that forms a part of the drive interconnected between the power source (116) and the mower decks (16, 18), as per claim 11; and

wherein the belt guard (122, 124) is pivotally mounted to the main frame (64) and extends outwardly therefrom over a portion of the belt drive (118), as per claim 12.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the guards of Erdman on the device of Miller in order to provide protection.

Allowable Subject Matter

9. Claims 6-9, 13-15, 17 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

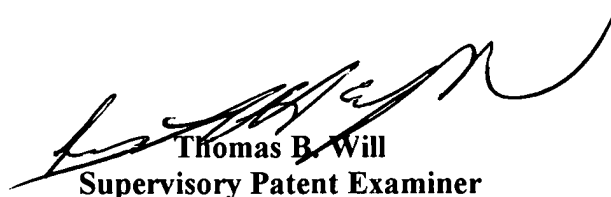
10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Price, Caldwell and Tekulve have been cited as of interest.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



Thomas B. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
August 17, 2004